

E-015/RP-94-291 ORDER DENYING REQUEST FOR EXEMPTION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
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In the Matter of Minnesota Power's 1994  
Biennial Resource Plan Filing

ISSUE DATE: June 9, 1994

DOCKET NO. E-015/RP-94-291

ORDER DENYING REQUEST FOR  
EXEMPTION

**PROCEDURAL HISTORY**

On July 2, 1992, Minnesota Power filed its first biennial resource plan under Minn. Rules, parts 7843.0100 through 7843.0600. Docket No. E-015/RP-92-485.

On June 2, 1993, the Commission issued its ORDER ACCEPTING FILING, REQUIRING FURTHER FILINGS, AND SETTING REQUIREMENTS FOR NEXT RESOURCE PLAN FILING in the 1992 resource plan docket. In that Order the Commission accepted the Company's first resource plan filing effort. The Commission required the Company to make certain changes before the next biennial resource filing, due July 1, 1994.

The June 2, 1993 Order required the Company to file updates to four issues in the 1992 resource plan. The Commission also ordered the Company to meet with commenting parties to discuss treatment of ten issues in the 1994 resource filing. The Company was ordered to make informal reports on the discussions on October 15, 1993, and February 15, 1994. Finally, the Commission set out nine specific filing requirements for the 1994 resource plan.

On October 15, 1993, and February 15, 1994, Minnesota Power filed informal interim reports pursuant to the June 2, 1993 Order.

On March 29, 1994, Minnesota Power filed a petition for a one-time partial exemption from the resource planning rules, Minn. Rules, part 7843.0400, subparts 2, 3, and 4, and from the nine specific filing requirements from the June 2, 1993 Order. The Company asked to be allowed to file a modified 1994 resource plan which would include the remaining rule requirements and other information. The Company also asked the Commission to order it to meet with interested parties to discuss improvements to the Company's resource planning process.

Between April 7, 1994, and April 28, 1994, the following parties filed comments regarding Minnesota Power's request for a partial exemption: the Shareholder Representative of the Resource Planning Advisory Group<sup>1</sup> (RPAG); Senator Jerry R. Janezich; Izaak Walton League of America (IWLA); the Residential Utilities Division of the Office of the Attorney General (RUD-OAG); the Department of Public Service (Department); Duluth Community Action Program, Inc.; Brainerd Public Utilities; Georgia-Pacific Corporation; and a group of Large

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<sup>1</sup> RPAG is a group of stakeholders organized to provide advice and assistance in the Company's development of its 1992 and 1994 resource plans.

Power Customers<sup>2</sup>.

Minnesota Power's request for a partial exemption came before the Commission for consideration on May 26, 1994.

## **FINDINGS AND CONCLUSIONS**

### **I. The Company's Request for Exemption**

Minnesota Power filed its request for partial exemption under Minn. Rules, Part 7843.0300, subpart 4. This rule section allows an exemption to resource filing rules if a utility files a written request for exemption at least 90 days before the plan is due, and shows that the data requirement is unnecessary or may be satisfied by submitting another document.

Minnesota Power stated that it foresees no new capacity requirements for at least the next fifteen years. As a consequence, its 1994 resource plan would largely duplicate the 1992 filing. According to Minnesota Power, resource plan filings should be "needs driven" rather than "schedule driven."

The Company stated that it had just received the raw data for an end-use study of industrial and commercial energy use patterns. Although this study is not required under Commission rules or Orders, an analysis of the data would be extremely useful in formulating demand side management (DSM) goals and demand forecasts. The Company wished to incorporate the end-use study analysis into ongoing discussions with interested parties, lessening the need for a full 1994 resource plan filing. According to Minnesota Power, the RPAG agreed that the emphasis should be on continuing dialogue rather than unnecessary filings.

Minnesota Power's proposed modified resource plan filing would contain the following elements: advance forecasts, including DSM impacts; a load and capability report and energy balance summary; a renewables report; the 1993-1994 RPAG report; and a summary of noteworthy changes which have occurred on Minnesota Power's system since the 1992 resource plan.

The Company asked for a Commission directive requiring continuing dialogue with interested parties on the following topics: renewables; DSM; externalities; contingency planning; rate design; and cogeneration projects and special rates.

Minnesota Power expressed the belief that the intent of the resource planning rules would be fully served by the availability of the 1992 resource plan, the recent compliance filings, the modified 1994 plan, and reports from future group discussions. According to Minnesota Power, these information sources should be sufficient for the Commission's evaluation of Minnesota Power's resource planning.

### **II. Comments of the Parties**

Commenting parties other than the Department, the RUD-OAG, and IWLA expressed unqualified support for the Company's concept of a modified resource plan.

Although the Department was not directly opposed to the Company's proposal for a modified filing, the Department did not believe that the filing would provide sufficient information. The

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<sup>2</sup> The Large Power Customers consisted of Hibbing Taconite Company, Eveleth Taconite Company, Inland Steel Mining Company, USX Corporation, and Blandin Paper Company.

Department stated that the Company should file, at a minimum, the following additional information: DSM goals that consider the new demand forecast, end-use study, and new interim values for environmental externalities; a contingency plan that addresses three specified contingencies; a discussion of meeting future deficits in light of the new demand forecast and DSM goals; and graphs and charts.

The RUD-OAG commended Minnesota Power's efforts to comply with all aspects of the Commission's June 2, 1993, Order. The RUD-OAG stated that the Company should be required to file additional information on environmental externalities and contingency planning if a partial exemption from resource planning rules is granted. The RUD-OAG also recommended that the Company file an updated report six months after filing its modified resource plan. Finally, the RUD-OAG sought clarification that a lack of capacity needs alone would not necessarily justify exemption from resource plan filing requirements.

The IWLA agreed with the RUD-OAG that Minnesota Power has shown a commitment to improving the resource planning process. Although the IWLA was not opposed to a partial exemption, the IWLA expressed concern that a precedent for future exemptions might be set. The IWLA recommended that the Commission and interested parties develop standards for any exemptions from resource plan filing rules.

### **III. Commission Action**

Minn. Stat. § 216B.2422, subd. 2 states that the Commission shall approve, reject, or modify each public utility's resource plan consistent with the public interest. Minn. Rules, Part 7843.0500 provides direction for Commission review of biennial resource plan filings. The rule lists the following factors for Commission evaluation of proposed plans: reliability of service; rate stability; limitations of utility and ratepayer risk; protection against adverse socioeconomic and environmental effects; and enhancement of utilities' abilities to respond to change. These factors underscore the broad policy concerns which the Commission must reflect through its review of utility resource plans.

The governing resource plan statute and rules contemplate that the Commission will form its policy determinations with the benefit of each utility's resource plan filing as a whole. Although Minn. Rules, Part 7843.0300, subpart 4 does allow an exemption from filing requirements, the exemption is meant to be an exception to the rule. Granting the exception is left to the Commission's discretion.

In this case, the Commission does not find that Minnesota Power has made a sufficient showing under Minn. Rules, Part 7843.0300, subpart 4 that "the data requirement is unnecessary or may be satisfied by submitting another document." Of particular importance is the fact that the Department, which is charged with investigating and enforcing regulatory requirements, does not find the Company's filing sufficient. The Department's list of additional information needs is both broad and substantive. The RUD-OAG, representing ratepayers, also recommends that the Company provide significant further information and an updated report. Although neither agency specifically opposes the exemption, their further information needs indicate serious inadequacies in the proposed modified resource plan.

Given the insufficiency of the Company's modified filing proposal and the need for the Commission to examine resource plans as a whole, the Commission finds that the Company's request for exemption from filing requirements should be denied. The Commission finds that the inadequacies in the modified filing plan are simply too great to be satisfied outside of a full resource plan filing. Minnesota Power should therefore submit a complete resource plan filing by the statutory deadline, July 1, 1994.

The Commission does not believe that denying Minnesota Power's request for a filing exemption

will work against the Company's efforts to improve its resource plan. The Commission notes that the Company's end-use data will be provided to parties along with the rest of the July 1 filing. While the Company will not have analyzed the data at that time, parties will be able to form their own analyses by examining the filed data. Minnesota Power will also be able to supplement the data if necessary and to file an analysis in further rounds of comments and data production.

Filing a complete resource plan will not in any way preclude Minnesota Power from continuing to discuss improvements to the resource plan process with the RPAG. Although the Commission does not find it necessary to direct the Company to continue discussions, the Commission encourages the Company to continue these efforts.

The Commission commends the Company's past efforts to improve its resource planning process, to involve its stakeholders in the process, and to comply with Commission filing directives. At this time, the Commission finds that adhering to the statutory and rule requirements for resource plan filings is the best means for the Company to continue improving and developing its process.

**ORDER**

1. Minnesota Power's request for partial exemption from resource plan filing requirements is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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